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Report : Claim of W. Hansell et al.

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Recommended Citation

S. Rep. No. 211, 31st Cong., 1st Sess. (1850)

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IN SENATE OF THE UNITED STATES.

SEPTEMBER 20, 1850.

Submitted, and ordered to be printed.

Mr. BERRIEN made the following

REPORT:

The Committee on the Judiciary, to whom was referred the memorial of W. Y. Hansell, W. H. Underwood, and the representatives of Samuel Rockwell, ask leave to report:

That the memorialists were the counsel of the Cherokee nation, attending for the space of three years to a great multitude of cases in different circuits of the State of Georgia; that they were solicited by the commissioner who negotiated the treaty of 1835 to aid in the negotiation, with the assurance that their claims should be provided for in the said treaty; that these assurances were given by the commissioner, Mr. Schermerhorn, and the then President of the United States, General Jackson; and the sum of \$60,000 was stipulated in the treaty to be applicable to their claims alone. This fact is acknowledged by the commissioners, and the fact that the treaty could not have been negotiated without the aid of the memorialists is also stated by Mr. Schermerhorn, the commissioner who negotiated the treaty. The claims of the memorialists were presented to the commissioners appointed to carry the treaty into effect, and were by them referred to a committee of Indians, appointed under the 12th article of the treaty, for the purposes therein specified, who made a report allowing \$21,000 for three years' service of three gentlemen of high professional standing. Against this report the memorialists protested; but it was finally agreed that this sum should be received as an advance, the commissioners expressly reserving to themselves the right to review the case and do what justice might require.

Subsequent commissioners were appointed, who disagreed in opinion upon the claim; and ultimately, on the suggestion of the Secretary of War, the commissioners referred the account to seven professional gentlemen of Georgia, with power to any three to act, five of whom united in an award, which was laid before the commissioners. In the mean time, the commissioners had diverted a portion of the fund reserved for the payment of these claims to others, leaving only some \$8,000 of that fund unexpended, which sum the last board of commissioners acting under the award directed to be paid to the memorialists, it being the whole amount of the reserved fund which remained under their control.

The memorialists now claim that the balance of that fund, which was created for *their benefit alone*, and which has been applied by the commissioners of the United States to other purposes, shall be paid to them.

The committee think they are entitled to receive it, and, referring for the facts here stated to the accompanying papers, recommend the adoption of the following amendment to the Indian appropriation bill:

"For payment in full of the claims of W. Y. Hansell, W. H. Underwood, and the representatives of Samuel Rockwell, thirty thousand dollars, being the balance of the sum of \$60,000 reserved in the treaty between the United States and the Cherokee nation (negotiated on the 29th of December, 1835) for the payment of the said claims, and misapplied by the commissioners of the United States to the payment of other claims—the said sum to be distributed in the following manner:

"To W. Y. Hansell, \$11,146.

"To W. H. Underwood, \$9,035.

"To the legal representatives of Samuel Rockwell, \$10,144."